

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**DIANE COWAN, minor, by her mother and
next friend, Mrs. Alberta Johnson, et al.;
FLOYD COWAN, JR., minor, by his mother
and next friend, Mrs. Alberta Johnson, et al.;
LENDEN SANDERS; MACK SANDERS;
CRYSTAL WILLIAMS; AMELIA WESLEY;
DASHANDA FRAZIER; ANGINETTE
TERRELL PAYNE; ANTONIO LEWIS;
BRENDA LEWIS;**

PLAINTIFFS

and

UNITED STATES OF AMERICA

INTERVENOR-PLAINTIFF

V.

NO. 2:65-CV-00031-DMB

**BOLIVAR COUNTY BOARD OF
EDUCATION, et al.**

DEFENDANTS

ORDER

On October 25, 2016, this Court, following a telephonic conference with the parties in this case, entered a scheduling order to govern discovery regarding the Cleveland School District's motion to modify the desegregation plan¹ adopted by this Court, in which the District proposed an alternative desegregation plan. Doc. #244. The scheduling order provided that an evidentiary hearing on the District's motion "will be held in January 2017, and will be set by separate notice." *Id.* at 2.

On November 15, 2016, the United States submitted a letter to the Court stating that "the Court has before it all of the information necessary to rule on the constitutionality of the

¹ The District asked the Court to reconsider its August 16 order denying the District's August 15 motion to modify the adopted desegregation plan. Doc. #227. The Court deferred ruling on the request for reconsideration, Doc. #235, and ordered the District to formally file its proposed modification, Doc. #239, which the District did on October 14, 2016, Doc. #241.

District's [proposed modification]." Doc. #248. The following day, the District wrote to the Court stating that its School Board recently approved a different proposed plan which would be submitted to the Court. Doc. #249.

On November 17, 2016, this Court convened a telephonic conference to discuss the status of the case in light of the parties' correspondence. Doc. #251. At the conference, the parties expressed a desire to engage in settlement negotiations regarding the District's new proposed plan. Additionally, the United States informed the Court that it wishes to pursue discovery on the new plan. On November 18, 2016, the District formally filed its new proposed "Unified High School Plan" and withdrew the plan proposed in its motion to modify, which was formally submitted to the Court on October 14, 2016. Doc. #252.

In light of the District's proposed plan filed November 18, 2016, and its withdrawal of the plan proposed in its motion to modify, it is **ORDERED**:

1. The District's motion for reconsideration of this Court's August 16, 2016, order denying the motion to modify [277] is **DENIED as moot**.
2. The deadlines set in the October 25, 2016, scheduling order [244] are **TERMINATED**.
3. The parties shall engage in settlement discussions and shall, no later than December 16, 2016, inform the Court of the status of such negotiations.
4. The parties may engage in discovery regarding the District's new proposed plan under the following schedule:
 - a. The parties shall have fourteen (14) days from the date of service of any discovery requests to respond and/or produce documents to the requesting

party. The parties must promptly notify the Court of any discovery disputes that cannot be resolved voluntarily by the parties.

- b. By January 3, 2017, the parties shall designate their respective expert witnesses, indicating for each whether the expert witness *may* or *will* be called to testify at hearing, if one is held, and shall attach each expert witness' curriculum vitae or resume to the designation. Each expert report shall include all information required by Rule 26 of the Federal Rules of Civil Procedure.
 - c. By January 20, 2017, the parties shall complete all discovery, including depositions.
 - d. Absent approval by this Court, any information not provided in discovery will be inadmissible at an evidentiary hearing, should one be held.
5. If no settlement is reached, the United States and the Private Plaintiffs shall file their objections to the District's revised proposed plan on or before January 31, 2017.
 6. The District may reply to any objections within fourteen (14) days of the filing of such objections.
 7. An evidentiary hearing, if necessary, will be set by separate notice.
 8. Until ordered otherwise, the District remains bound to comply with this Court's September 22, 2016, order setting forth the timeline for the consolidation of the District's schools in accordance with the May 13, 2016, order.

SO ORDERED, this 21st day of November, 2016.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE